

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

ANDRE L. FAIRCLOTH,

Plaintiff,

v.

ACTION NO. 2:13cv156

CAROLYN W. COLVIN,  
Acting Commissioner of the Social  
Security Administration,

Defendant.

ORDER

The Plaintiff brought this action under 42 U.S.C. §§ 405(g) and 1383 (c)(3) seeking judicial review of the decision of the Commissioner of the Social Security Administration ("Commissioner") denying the Plaintiff's claim for disability insurance benefits ("DIB") and supplemental security income ("SSI"), under the Social Security Act.

On June 7, 2013, this matter was referred to United States Magistrate Judge Tommy E. Miller, pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Federal Rule of Civil Procedure 72(b). The Plaintiff filed a Motion for Summary Judgment and an accompanying Memorandum in Support on July 10, 2013, and the Defendant filed a Motion to Remand on August 9, 2013. The Report and Recommendation was filed on February 27, 2014. The Magistrate Judge recommended that the

Commissioner's decision be reversed, the Defendant's Motion to Remand be granted, and the Plaintiff's Motion for Summary Judgment be granted to the extent it requested remand, and denied to the extent it requested an immediate award of benefits. By copy of the Report and Recommendation, the parties were advised of their right to file written objections to the findings and recommendations made by the Magistrate Judge. The Plaintiff's Objections to the Magistrate Judge's Report and Recommendation were filed on March 17, 2014, and the Defendant's Response to the Objections was filed on March 27, 2014.

The court, having examined the Objections and Response to the Objections and having made de novo findings with respect thereto, does hereby adopt and approve the findings and recommendations set forth in the Report and Recommendation of the United States Magistrate Judge filed on February 27, 2014. Accordingly, the Commissioner's decision is **VACATED** and **REMANDED** for further administrative proceedings consistent with this Order and the Report and Recommendation; the Defendant's Motion to Remand is **GRANTED**; and the Plaintiff's Motion for Summary Judgment is **GRANTED** to the extent it requests remand, and **DENIED** to the extent it requests an immediate award of benefits.

The Clerk shall forward a copy of this Order to counsel for the parties.

IT IS SO ORDERED.

/s/  
Rebecca Beach Smith  
Chief  
United States District Judge

REBECCA BEACH SMITH  
CHIEF UNITED STATES DISTRICT JUDGE

April 2, 2014